

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

RODERICK O'BANNON,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 09-cv-0982-MJR
)	
TERMINAL RAILROAD ASSOCIATION)	
OF ST. LOUIS,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

REAGAN, District Judge:

On November 24, 2009, *pro se* Plaintiff Roderick O'Bannon filed suit against Defendant Terminal Railroad Association of St. Louis alleging discrimination based on race and color, as well as retaliation for engaging in protected activity, in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e *et seq.*

Rule 4(m) of the Federal Rules of Civil Procedure provides, in pertinent part:

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period. **Fed.R.Civ.P. 4(m).**

The 120-day period has run, and the docket sheet reflects no activity indicating service.

If a plaintiff fails to serve process within 120 days, the court may grant an extension of time if good cause for failure to serve process exists. *Troxell v. Fedders of N. Am., Inc.*, 160 F.3d 381, 382-83 (7th Cir. 1998). Moreover, even if the plaintiff cannot establish good cause, the

court may, in its discretion, grant an extension. *Panaras v. Liquid Carbonic Indus. Corp.*, 94 F.3d 338, 340 (7th Cir. 1996).

The Court believes that the current circumstances - that O'Bannon is *pro se* and there may be attendant confusion regarding his responsibilities - justify an extension of time. Accordingly, the Court, *sua sponte*, **GRANTS** an extension of time, to and including May 14, 2010, for O'Bannon to effect service on Terminal Railroad Association of St. Louis. The Court advises O'Bannon that he can request a blank summons from the Clerk's Office, which he must fill out and serve on Terminal Railroad, in accordance with Rule 4 of the Federal Rules of Civil Procedure. The Court **DIRECTS** the Clerk of Court to mail to O'Bannon at his address of record a copy of this Order with a copy of *Pro Se Litigant Guide*. Lastly, the Court **WARNS** O'Bannon that failure to effect service on Terminal Railroad by May 14, 2010, **will result in dismissal** of this action without prejudice to refiling (if refiling is possible within the applicable statute of limitations).

IT IS SO ORDERED.

DATED this 6th day of April, 2010

s/Michael J. Reagan
MICHAEL J. REAGAN
United States District Judge